

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL ACTION NO. 94-534-02
	:	
v.	:	
	:	
OSSIE R. TRADER	:	

MEMORANDUM

Baylson, J.

July 12, 2006

I. Introduction

Currently before this Court is a “Motion Pursuant to 18 U.S.C. 3583(c)(2) and 1B1.10 Reduction in Term of Imprisonment as Result of Amended Guideline Range” (Doc. 191), filed by Petitioner Ossie R. Trader (“Trader”). Trader originally pled guilty in 1995 to conspiracy to commit armed bank robbery, use of a firearm during a crime of violence and aiding and abetting in violation of 18 U.S.C. §§2113(d), 924(c) and 2. This Court sentenced Mr. Trader to 248 months on March 20, 2000. Since that time, Mr. Trader, who is pro-se, has filed numerous habeas petitions and other motions, all asking this Court to set aside or reduce his sentence, and all of which have been found to be without merit and denied.¹

II. Discussion

¹Petitioner has filed four petitions to vacate, set aside or correct sentence pursuant to 28 U.S.C. 2255, docketed as Civil Action No. 02-cv-1117 (March 1, 2002), Civil Action Nos. 03-cv-3595 (June 11, 2003), 04-cv-2258 (May 24, 2004), and 05-cv-1595 (April 7, 2005), all of which have been dismissed by this court. Additionally, using various procedural devices, he filed eight separate motions challenging the trial court’s subject matter jurisdiction over his criminal case, which this Court denied in one memorandum/order dated November 30, 2005. Finally, he filed a Motion for Reconsideration pursuant to Rule 60(b), which this Court interpreted as a second, successive habeas petition and accordingly denied on January 31, 2006.

Relying upon 18 U.S.C. § 3582(c)(2)² and section 1B1.10 of the United States Sentencing Guidelines (the “Guidelines” or “USSG”), Petitioner now advances a new argument to have his sentence reduced. Having independently and thoroughly considered Trader’s Motion, for the foregoing reasons, this Court concludes that it must be denied.

The provisions of § 3582(c)(2) are only triggered when the Sentencing Commission amends the guidelines, resulting in the lowering of the sentencing range under which a defendant was sentenced. United States v. Sanchez, 140 Fed. Appx. 409, 410 (3d Cir. 2005) (non-precedential decision); United States v. Caldwell, 155 F. Supp. 2d 292, 294 (E.D. Pa. 2001) (citation omitted).

Although not entirely clear, Trader seems to suggest that Amendment 506 to the Guidelines, which precluded consideration of enhancements in calculating the “offense statutory maximum,” was an amendment to the statutory offense that underlaid his sentence and requires this Court to lower his sentence. U.S.S.G. § App. C, amendment 506 (Nov. 1994). However, Amendment 506 of the Guidelines was invalidated by the Supreme Court's decision in United States v. LaBonte, 520 U.S. 751, 756-57 (1997), which found it to be “at odds with the plain language of § 994(h),” and has been subsequently been superseded by Amendment 567. See,

²18 U.S.C. § 3582(c)(2) provides:

(c) The court may not modify a term of imprisonment once it has been imposed except that --- (2) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

e.g., United States v. Bell, 445 F.3d 1086, 1090 (8th Cir. 2006); United States v. Bissonette, 281 F.3d 645, 647 (7th Cir. 2002). Petitioner has not identified any reduction in the actual level designation made by the Sentencing Commission for his offense of conviction or an applicable court holding that would apply to him. Consequently, he is not entitled to a reduction in sentence under 18 U.S.C. § 3582(c)(2).

VI. Conclusion

Having reviewed Trader's Motion for Reduction of Sentence Pursuant to 18 U.S.C. 3583(c)(2), for the foregoing reasons, this Court concludes that it must be denied.

An appropriate Order follows.

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ORDER

AND NOW, this day of July, 2006, based on the foregoing memorandum, Petitioner's
"Motion Pursuant to 18 U.S.C. 3583(c)(2) and 1B1.10 Reduction in Term of Imprisonment as Result of
Amended Guideline Range" (Doc. 191) is DENIED.

BY THE COURT:

/s/ Michael M. Baylson

MICHAEL M. BAYLSON, U.S.D.J.